App F IX 4

Previous References (1934 Jul)

File No 294-33

Serial Nos 1, 2

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos 1, 2,

Part B for July 1934

SUBJECT

Legal opinion regarding the correct interpretation of the prov of Sect-64(b) Provso ~~of sect~~ a (iii) of Mysore city municipalities Reg 1933 etc

To The president city ml council Mysore

WD 01965—GPB—15 000—7 7-34

2 The ~~Opinion of the~~ legal opinion is forwarded

L S 34 / ml 294-33-2

Dated 20th July 1934

J R 6 Govts
16-8-34

6062 1932

General and Revenue Secretariat — File No 294 of 1933 — [App F III

Serial No

1 Letter no 4 T 2382 dated 19th June 34 from the President city municipality Mysore requesting what legal opinion may be obtained as to the correct interpretation of the provision of Section 66 (b) proviso a (iii) of the Mysore city municipalities Rules and also as to the admissibility of a resolution which does not seem defensible by the rules

If Schedules forbodes & other Laws section may be considered

83 3/7/34

For favor of opinion

Advocate, Law Secy, Camp

3/7

Law 4/7/34

Law 4

2 According to sec 66 (b) Proviso a (iii) of the City Municipalities Rules any building or part of a building used as a place of public worship or used for a Charitable purpose is exempted from all Taxes other than a special sanitary tax, in case rate the phrase for consideration is clause proviso a (iii) includes all the properties attached to the public worship etc for a charitable purpose, or whether it is confined to the specific place used for worship & for other charitable purposes

4 The object of the legislature in restricting it to "place of worship" seems to exclude all the other properties used for purposes of profit therefore it is clear that the "place of worship and

NOTE—Contn Sheet.

the proviso is not so comprehensive as to include any other property the benefits of which supposed to be used for the ~~maintenance~~ place of worship attached for its own purpose

5 The proposition of Mr TS Abraham therefore seems to be inconsistent with the provisions of the Regn

6) The proviso to sec 64 of the Cochin Municipal Regulation prevents any tax, other than a special sanitary cess or water rate, being levied except with the express consent of Govt, in respect of—
"any building or part of a building used as a place of public worship or used for a charitable purpose".
It is clear that the exemption applies only if the building or part of it is used as a place of public worship or it is used for a charitable purpose. If the building is used for purposes of trade or other business, it is not entitled to exemption, even if such trade or business is carried on only for a charitable purpose. Consequently a building let out for shops etc is not used as a place of public worship nor is it used for a charitable purpose, even though the rents may be solely used for such purposes.

Serial No

OFFICE
15 JULY 1934
No 256

7 The Resolution brought forward is therefore contrary to law and cannot be acted

asst Secy Rdg
with Compts } MP 12 7 34

HP
Law

8 For orders if a copy of the above opinion may be sent to the President of the Rice

Chief Secy) MP 13/7

CHIEF SEC
13 JULY 1934

9 Then may he do so Sub for perusal

RR
#/13/7/34
MP 13/7

Dewan

10) MP 15-7-34

RR
16/7/34
MP 19/7

TYPING SECTION
* 23 JUL 1934 *
GENL & ECTT

11) Submitted with a draft for approval
RR for MP
19 7 34

Issue MP 20/7

2 Issues not 536 of 25/7/34 to Government may move forward a copy of the legal opinion in the matter

Note–Contn Sheet.

J
MP 25/7

File No of 193

General and Revenue Secretariat

6062

OFFICE OF THE PRESIDENT

CITY MUNICIPAL COUNCIL MYSORE

DATED 19th June 1934

GT 2382/Ex 1
22634

Re 294-33-1

FROM

B T KESAVAIENGAR ESQ , B A

President City Municipal Council

MYSORE

GEN & REV SECTT
27 JUN 1934
L & G BP

Re 25/407

To Amalb

The Chief Secretary to the Government of

His Highness the Maharaja of Mysore

BANGALORE

Sir

I have the honour to state that Mr T S Ali Khan formerly a Municipal Councillor sent the following proposition in November 1933 -

"Resolved that all properties belonging to temples mosques churches and other charitable institutions the income from which is utilised for the benefit of such institutions be exempted from taxation "

This resolution was considered by the Municipal Council on 24th February 1934 who referred the matter to the Managing - , Committee for careful examination and submission of recommendations on the Resolut on The Managing Committee considered the matter in their meeting dated 17th March 1934 and in the result the resolution was lost one voting for exemption and three against it

The resolution having thus been lost Mr Mohamed Vali Ullah Municipal Councillor proposed in his letter dated 31st March 1934 to move the same resolution in the Council as it was not passed by the Managing Committee Accordingly the entire proceedings relating to the resolution was placed before the Council in their meeting dated 26th May 1934 and when the matter came up for - discussion a point of order was raised in regard to the - - exemption referred to in the Resolution

P T O

As per Section 64(b) proviso(a)iii of the City Municipalities Regulation no tax other than a special sanitary cess or water rate is leviable without the express sanction of Goverrment on any building used as a place of public worship or used for a - charitable purpose It was contended on one side that taxation on buildings or parts of buildings attached to religious or - charitable institutions earning rent which is utilised for the benefit of the institution is opposed to the provisions of Section 64(b) proviso(a)iii as they form part and parcel of the buildings used for religeous or charitable purposes and it was therefore urged that the Resolution should be considered On the other hand a few members raised a point of order that Section 64(b) proviso(a)iii referred only to such buildings as are used exclusively as places of public worship or used for charitable purposes that it does not apply to buildings the income from which is utilised for the benefit of religeous or charitable institutions, and that therefore the Resolution is opposed to the statutory provisions and as such inadmissible

The practice in this Municipality has been that only such buildings or part of buildings as are used as places of public worship or used for charitable purposes are exempted from - taxation and buildings or part of buildings attached to these religeous or charitable institutions earning rent are subjected to taxation irrespective of the purpose to which the income accruing therefrom is appropriated

In this connection I beg to invite your kind reference to the notes on page 248 of Cumming's Bombay District Municipalities Manual and in view of the doubts raised in the matter I beg to request that legal opinion may be obtained as to the correct interpretation of the provision of Section 64(b) proviso(a)iii of the Regulation and also as to the admissibility of the - Resolution referred to in para 1 supra which has been deferred

P T O

deferred by the Council A copy of the Resolution is enclosed for reference

A very early reply on the subject may kindly be sent

I have the honour to be

Sir

Your most obedient servant

PRESIDENT

GVN

Proceedings of the 27th (Ordinary) meeting of the Mysore City Municipal Council held in the Council Chamber on Saturday the 26th May 1934 at 4 30 P M

Present

B T Kesava Iyengar, Esq , B A , President

1 Mohamed Sait, Esq , Vice-President
2 P Sitharamiah, Esq , B A ,B L ,
3 C Narasimhiah, Esq , B A ,B L ,
4 S Krishnaswami Rao, Esq , B A ,LL B ,
5 A Venkatesiah, Esq , B A ,LL B ,
6 K N Venkatakrishniah, Esq , B A ,
7 V Lingappiah, Esq , B A ,LL B ,
8 D B Viswambhariah, Esq ,
9 H C Dasappa, Esq , B A ,LL B ,
10 V H Theobald, Esq ,
11 M Shankariah, Esq , B A ,LL B ,
12 A J Ram, Esq ,
13 Y Virupakshiah, Esq ,
14 Hussain Ali, Esq ,
15 Rev G ' Sawday
16 G Ahmad Khan, Esq ,
17 Mahomed Valiullah, Esq , B A ,LL B ,
18 B L Maridandiah, Esq ,

Absent

1 M K Krishna Rao, Esq ,
2 RaoSahib M Ramaswamy, Esq ,
3 A Krishna Rao, Esq ,B A ,B L ,
4 M C Thammiah,Esq ,
5 A R Srikanta Sarma, Esq ,
6 U L Ramachandra Rao, Esq ,
7 P Mariyappa, Esq , B A ,LL B ,
8 Mahomed Ghouse Peer, Esq ,
9 K DhanakotiChetty, Esq ,
10 T Arumuga Mudaliar, Esq ,
11 Madneva Rao Powar, Esq ,

x x x

494 (a) Council's Resolution No 352 dated 24-2-1934 referring to the Managing Committee for careful examination and submission of recommendat on the resolution by Mr T S Ali Khan dated 10-11-1933

Managing Committee's Resolution No 377 dated 17-3-1934 runs a follows - "Council's Resolution No 352 dated 24-2-1934 referring to the Managing Committee for careful examination and submission of recommendat the following resolution by Mr T S Ali Khan:-

'i Resolved that all properties belonging to temples,mosques, Churces and other charitable institutions, the income from which is utilised for the benefit of such institutions be exempted from taxation'

1- for exemption and
3- against, hence, proposition is lost'

(b) Letter dated 31-3-1934 and 26-4-1934 from Mr Mohamed Valiulla Municipal Councillor stating that he intends to move the above resolutio inthe Council, as the same was not passed by the Managing Committee

Resolution-Deferred as regards point of order raised whether the proposition is consistent with the provisions of th Regulation

"Copy" x x x Sd/-B T Kesava Iyen

Appendix F G—1]

SUBJECT

Section ML

File No 294-33

Serial No 2

Diary No of letter replied to L6062

No L 5534 Enclose

To The President

city municipal Council Mysore

General and Revenue Secretariat

( )

the *193*

Date of issue 25-7-34

Signed by Ma S. Rao

Sir

With reference to your letter no - G-7-2382 dated 19/6/34 requesting that legal opinion may be obtained as to the correct interpretation of the provision of Section 64 (b) proviso a(iii) of the Mysore city Municipalities Rgn, 1933 and also as to the admissibility of a resolution on the subject which has been defeated I am directed to forward herewith a copy of the legal opinion in

List of enclosures

Copied by (2)+2 encl DWC 28/7

Examined by (Paras 6 & 7 of the note)

WD 0677—GPB—15 000—8 11 33

P 7p

re ~~Frost~~ matter

I have etc

Hon 20
Archibald Leighton Gunn

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No S534/Rev 294-33-2 Bangalore Dated 26th July 1934

Enclosure

From

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore*

To

The President
City Municipal Council
Mysore

Sir

With reference to your letter No G T 2382 dated the 19th June 1934 requesting that legal opinion may be obtained as to the correct interpretation of the provision of section 64(b) proviso (a) (iii) of the Mysore City Municipalities Regulation 1933 and also as to the admissibility of a resolution on the subject which has been deferred by the Municipal Council I am directed to forward herewith a copy of the legal opinion in the matter

I have the honour to be
Sir
Your most obedient servant

Chief Secretary to Government

vvk ?